

This letter discusses reward credits, sometimes referred to as hostess dollars. See 86 Ill. Adm. Code 130.401(c). (This is a GIL.)

November 5, 2003

Dear Xxxxx:

This letter is in response to your letter dated May 5, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.1120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

AAA is engaged in the business of direct selling PRODUCT through Independent Sales Consultants located in your state and throughout the country. Consultants are Independent Contractors who arrange to hold home demonstrations of AAA PRODUCT. These demonstrations take place in potential customers' home. These customers are referred to as Hostesses. As an incentive to host such demonstrations, AAA offers discounts in the form of Hostess Credits toward the purchase of AAA Product.

Recently, we have received inquiries from our Independent Consultant and/or Hostesses concerning the sales and use tax consequences when a Illinois Hostess holds a Show in her home on behalf of a AAA Consultant and receives Hostess Credits based on the sales volume at the Show. These credits can only be used towards her personal selection and purchase of merchandise from our catalogs. The AAA Consultant is an Independent Contractor, purchasing all product sold at the Show directly from AAA, and reselling to the Hostess and guests. All sales and use tax collected at this Show from customers, including Hostesses, is remitted to AAA who forwards the tax on to your state.

To date, AAA has instructed its Illinois Consultants that sales and use tax be collected from a Hostess on the retail value of the products she is entitled to obtain with her Hostess Credits. Does this position accurately reflect your state's law? Or is it required in your state that since these Hostess Credits can only be used towards the purchase of

AAA products, and has no monetary value, these credits should be treated as discounts (i.e., non-taxable) for Illinois sales and use tax purposes?

I would very much appreciate it if you would clarify this sales and use tax issue for us as soon as possible so that AAA can appropriately respond to our Consultants and/or their customers and properly remit sales and use tax to your state.

A response to this inquiry can be forwarded to my attention at the address above. Thank you in advance for your prompt response to this inquiry.

The Department's regulation on the "Meaning of Gross Receipts" at 86 Ill. Adm. Code 130.401(c) provides that "[r]eward credits, sometimes referred to as hostess dollars, awarded to a host or hostess for sponsoring a party for friends at which sellers may show and solicit orders for their merchandise, and which are awarded based upon the amount of sales generated at the party, are included in gross receipts subject to tax when applied toward purchases of the seller's merchandise. The value of the reward credit equals the dollar amount credited when the reward credit is applied."

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk